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No. 84-52

IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

GRACE JARRELL,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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QUESTION PRESENTED FOR REVIEW

Whether an indictment severely lacking specificity curtailed defendant's fundamental Constitutional guarantees to a fair trial.

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OPINION BELOW

The order of the United States Court of Appeals for the Seventh Circuit affirming the conviction of petitioner is unpublished. The order is attached hereto.

JURISDICTION

The judgment of the United States Court of Appeals for the Seventh Circuit affirming petitioner's conviction was entered on May 1, 1984.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution provides in pertinent part:

> "No person shall be . . . deprived of life, liberty, or property, without due process of law. . . ."

The Sixth Amendment to the United States Constitution provides in pertinent part:

> "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury. . . ."

Title 18 U.S.C. Sections 201(c)(1), 201(c)(2) and 201(g) provides in pertinent part:

> "(a) For the purpose of this section:
>
> 'public official' means Member of Congress, or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror; and . . ."
>
> * * *
>
> "(c) Whoever, being a public official or person selected to be a public official, directly or indirectly, corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself or for any other person or entity, in return for:
>
> (1) being influenced in his performance of any official act; or

(2) being influenced to commit or aid in committing, or to collude in, or allow, any fraud or make opportunity for the commission of any fraud, on the United States; or . . . ."

* * *

"(g) Whoever, being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself for or because of any official act performed or to be performed by him; or . . . ."

STATEMENT OF THE CASE

Nature Of The Case

Grace Jarrell was charged in a six-count indictment with accepting bribes in return for being influenced in the performance of her official duties as a contact representative with the Immigration and Naturalization Service. This was done in violation of Title 18 Sections 201(c)(1), 201(c)(2) and 201(g). The defendant was tried before a jury beginning May 16, 1983. After a full trial on the merits, the defendant was found guilty of Count Two of the indictment in that she accepted $100.00 to be influenced in the performance of her official duties of processing forms by stamping duplicate documents as "Originals Seen and Returned" when she had not in fact seen the original documents. This was in violation of 18 U.S.C. Sections 201(c)(1) and (g).

On October 17, 1983, defendant was sentenced to 30 days imprisonment on Count 2. Notice of Appeal was timely filed and the Seventh Circuit affirmed defendant's conviction and sentence on May 1, 1984.

STATEMENT OF FACTS

Grace Jarrell, the petitioner, was charged in a six-count indictment for violations of Title 18, United States Code, Sections 201(c)(1), 201(c)(2) and 201(g) (CR. 1). She pleaded not guilty to all counts (CR. 10) and trial commenced on May 16, 1983 (CR. 19).

The Trial

The petitioner was indicted for accepting a bribe in return for her being influenced in the performance of her official duties as a contact representative with the Immigration and Naturalization Service.

During its case-in-chief, the government presented six witnesses:

Michael Shaul, the Assistant Director of Examination with the Immigration and Naturalization Service in the Chicago District (Tr. 42). He testified as to the general procedure of the Immigration and Naturalization Service (hereafter INS) in adjudicating applications for permanent residence, asylums, extensions of stay, changes of status, petitions filed by employers to classify aliens for immigrant visas and petitions to classify (Tr. 43).

Earle Black, criminal investigator with the INS office of Professional Responsibility. Investigator Black was the chief investigator in this case. He worked undercover using the name of Earl Jordan in his investigation against the petitioner (Tr. 101).

Elaine Jones, Immigrations Examiner with INS (Tr. 240), who on May 5, 1981, while using the name of Annette Nix, conducted an investigation of the petitioner at the

Immigration offices in Chicago (Tr. 242). Mrs. Jones was accompanied by two other investigators Earle Black and Leroy Fredericks. The investigation on that day was recorded (Tr. 242), and this incident also resulted in the instant conviction.

Joseph R. Lewis, Special Agent, Federal Bureau of Investigation (Tr. 281) who conducted the surveillance on May 4, 1981, when Investigator Black went to the home of the petitioner (Tr. 282).

Nina Crosby, Immigration Examiner with INS (Tr. 286), who along with Holliston Edwards and Earle Black conducted an undercover investigation of the petitioner on May 4, 1981, in the Chicago office of INS (Tr. 288).

Susanne Lewis, Special Agent, Federal Bureau of Investigation (Tr. 327) case agent and person in charge of placing recording equipment on the different individuals involved in the investigation (Tr. 328).

The petitioner, during her case-in-chief, including herself, called the following witnesses:

H. Nasif Mahmoud, a lawyer whose practice is in international business with a speciality in immigration law (Tr. 345).

Earle Black, the same Earle Black called by the government. When called as a witness for the defendant, he admitted irregularities involved in the investigation of the petitioner (Tr. 399).

Donald Edward Pulchaski, an attorney in Chicago whose speciality is immigration law (Tr. 453). Called as character witness for the petitioner (Tr. 459) and also for his knowledge and understanding of immigration practices here in the Chicago office (Tr. 456 and 457).

Margaret Harris, a contact representative with INS in Chicago and a co-worker of the petitioner (Tr. 501 and 502). Ms. Harris was called as character witness for the petitioner (Tr. 504).

Janice Ford, a file clerk with INS in Chicago (Tr. 519), who also acted as cashier and testified as to how the INS Form I-130 petition was handled by the Cashier (Tr. 525).

Andrew Cardaras, a lawyer in Chicago specializing in immigration law (Tr. 537) who testified as to how documents are received by contact representatives and subsequently stamped, if in order "Original Seen and Returned" (Tr. 541, 542 and 543).

Dick Gregory, entertainer and civil rights activist (Tr. 553), called to testify as a character witness for the petitioner (Tr. 558).

Ella Bradely, Supervisor with INS in Chicago (Tr. 561), called as a character witness for the petitioner.

Gordon Kendall, Special Agent with the United States Secret Service (Tr. 656), called as a result of the testimony of Earle Black wherein he stated that he had been a Secret Service Agent who had guarded President Nixon (Tr. 171). Agent Kendall testified that while he worked the White House detail there was no agent there named Earle Black (Tr. 658).

Mark Peterson, a lawyer in Chicago who specialized in immigration law (Tr. 662), called as a character witness for petitioner.

The petitioner was alleged to have taken money on three different occasions in exchange for accepting certain documents and stamping them "Originals Seen and Returned" when, according to the government the peti-

tioner did not actually see the original documents as required by law.

Grace Jarrell was an employee with the Immigration and Naturalization Service with 32 years of service (Tr. 368). The government charged that on April 10, 1981, May 5, 1981 and May 6, 1981 (CR. 1), she accepted money, $100.00 in each case, to be influenced in her official duties as a contact representative with INS (CR. 1).

The six counts of the indictment seem confusing, for example, in Count 1 the petitioner, on April 10, 1981, allegedly accepted $100.00 from Yvonne Smalls in exchange for being influenced in the performance of official acts with regard to approving, certifying and processing INS Form I-130 and the accompanying documents, while in Count 4 the petitioner, also on April 10, 1981, was accused of having accepted the same $100.00 from Yvonne Smalls in exchange for being influenced to commit and to aid in committing and to make the opportunity for the fraud on the United States, that is, falsely certifying that she had seen originals of Marriage and Birth Certificates accompanying INS Form I-130, whereas in truth and fact she had not (CR. 1) Counts 2 and 5 and Counts 3 and 6 relate to each other in similar fashion.

When the jury verdict was returned and read in open Court, the petitioner had been found not guilty as to Counts 1, 3, 4, 5 and 6, and guilty as to Count 2 (CR. 29).

The Guilty Verdict

Count 2 of the Indictment states that on May 5, 1981, while working in an undercover capacity, Elaine Jones, posing as Annette Nix and in the company of Leroy Fredericks and Earle Black met the petitioner in the INS

office in Chicago (Tr. 242). The conversation between the three INS investigators and the petitioner were recorded and admitted into evidence as government exhibit 11 (Tr. 244), along with the transcript of the recording, being government exhibit 11A.

The purpose of Elaine Jones that date was to attempt to classify her husband (Tr. 254) by filing INS Form I-130.

The purpose of the I-130 is to verify the relationship of the applicant and the proposed beneficiary (Tr. 267). The applicant is an American citizen or a permanent resident, and the beneficiary is an alien (Tr. 267).

A contact representative, which the petitioner was on that day, reviews the I-130 petition and examines the documents, usually a birth certificate and a marriage certificate (Tr. 255), and if the parties have the originals to stamp them, "Originals Seen and Returned." However, it is not the duty or function of a contact representative to discover phony documents, which might be used by applicants (Tr. 267).

Jones testified that she only had photocopies of her birth certificate, government exhibit 2B, Leroy Frederick's birth certificate, government exhibit 2C and their marriage certificate, government exhibit 2D (Tr. 252), which she submitted to the petitioner along with the I-130, which was government exhibit 2A. Even though Jones' documents were only photocopies, Grace Jarrell according to Jones marked them "Originals Seen and Returned" (Tr. 254) and then signed the I-130 petition (Tr. 255).

It was at this point that the petitioner took the I-130 petition along with $10.00 to the cashier, which is the processing fee for the I-130 (Tr. 256). Upon her return, Jones testified on direct, that the petitioner handed her

an envelope, wherein Jones stated she placed $100.00 in twenties in it and handed the envelope back to the petitioner, who then, according to Jones, put it in her purse (Tr. 260).

On cross, however, Jones admitted that the transcript of that recorded conversation did not reveal that the petitioner handed over an envelope or said anything about money other than the $10.00 processing fee (Tr. 273). As noted earlier, the jury found the petitioner not guilty of Count 5 which was the count when the petitioner had allegedly marked the document "Originals Seen and Returned."

Post-Trial Motions

On July 8, 1983, the petitioner filed a Motion for Judgment of Acquittal Notwithstanding the Verdict or in the Alternative a New Trial, the Court denied that motion on September 2, 1983 (CR. 44).

The Sentencing

The petitioner was sentenced to a period of thirty days in the Metropolitan Correctional Center in Chicago (Tr. 12, October 17, 1983). Petitioner is on bond pending this appeal.

On May 1, 1984, the United States Court of Appeals for the Seventh Circuit affirmed the conviction and sentence of the petitioner. It is that Order from which the petitioner now appeals.

REASONS FOR GRANTING THE WRIT

I.

WHETHER AN INDICTMENT SEVERELY LACKING SPECIFICITY CURTAILED DEFENDANT'S FUNDAMENTAL CONSTITUTIONAL GUARANTEES TO A FAIR TRIAL.

The right to due process is more than a promise by the government to provide its citizens a fair hearing. It is a cluster of separate and identifiable rights which comprise the primary due process guarantee. Thus, due process includes, among other things, the right to notice, the right to a hearing and the right to know the nature of the charges against the individual. In order to be effectual, each element of the due process guarantee must be strictly construed and honored. If this is not done, the due process element is diluted and the individual has lost the protection promised, and the power of the Constitution is eroded.

Mrs. Jarrell was accused in a six-count indictment for violations of Title 18 U.S.C. §201(c)(1), 201(c)(2) and 201(g). The indictment reflected two related problem areas, each of which denied Mrs. Jarrell her due process rights.

On page 650 of the trial transcript the government states its position that counts 4, 5 and 6 are lesser included offenses of 1, 2 and 3. The jury found Mrs. Jarrell not guilty on counts 1, 3, 4, and 6. If Mrs. Jarrell was not guilty on counts 4, 5 and 6 the elements for a finding of guilt on the greater offenses could not be present.

Beginning with page 650 of the trial record, there is extended discussion in Chambers between the Court and the attorneys for both sides. The configuration of the statute Mrs. Jarrell was charged with violating was so confusing none of the parties were certain how or whether to present

the whole charge to the jury or to remove some of the counts. The prosecuting attorney at page 693 of the trial record admitted to difficulty with this statutory scheme herself.

If a Judge and three attorneys cannot clarify the nature of the indictment against the accused is it fair to expect a rational decision based upon such confusion from the jury? The judge (Tr. 686) did not exercise his discretion to trim the counts into something comprehensible by the jury. Rather, he permitted the parties to use their judgment as to which counts to present to the jury.

In order to be fair in arriving at a decision at trial it is necessary that the charges carried in the indictment be clearly understood by the jurors rendering that decision. Jurors are not versed in the intricacies of the law as are lawyers and judges. An indictment using language and framed in such a manner as to confuse the Court and counsel for both sides must also be expected to confuse the jurors.

The Court was quite candid about its concern relative to the confusion of the jury as reflected in its comment ". . . but the concern I have is that the jury is going to get awfully confused because it took me 15 minutes with a law book to figure out what is going on in these separate counts." (Tr. 674-675). Defense counsel, in order to avoid the potential negative impact of jury confusion on the right to a fair trial, urged the Court to require the government to exercise an election as to what group of Counts under the indictment it would submit to the jury. (Tr. 677). The Indictment was one of six Counts. Defense counsel's position was, and is, that either Counts 1, 2 and 3 or Counts 4, 5 and 6 should have been submitted to the jury, but not all 6 Counts. The basis for requiring an election was set out in *United States v. Ketchum*, 320 F.2d 3 (2d Cir. 1963) in this manner, "The

basis for requiring an election among counsel is not that defendant may otherwise face mutable sentences; rather the reasons in some cases are those of promoting order and efficiency of trial and avoiding risk that the prolix pleading may have some psychological effect upon a jury by suggesting to it that defendant has committed not one but several crimes." (Tr. 678). The Court did not require this election of the government. Prosecutorial counsel resisted the suggestion of requiring an election of one or the other group (Counts 1, 2 and 3 or Counts 4, 5 and 6) of Counts in the indictment and insisted that all Counts be submitted even after the Court stated that ". . . I think you run an awful risk of confusing the devil out of the jury of what is the difference between the counts." (Tr. 675). Counsel for the government based its resistance to an election upon its fears that the jury would draw an adverse inference (Tr. 676) by the elimination of three of the Counts in the indictment, implying that their chance of obtaining a conviction would be lessened. If a problem "arises," said the government, it could be dealt with after the verdict comes back. (Tr. 677). The Court erred in not requiring the government to elect either Counts 1, 2 and 3 or 4, 5 and 6 of the government's indictment of the appellant for submission to the jury because it prevented an understanding deliberation by the jury, mired it in a sea of confusion, and thereby denied appellant a fair trial. The correctness of this position taken by the defense is emphasized when we recall the Court asking counsel for the government, "Now, why in heaven's name are you taking both?" referring to both groups of Counts (1, 2 and 3 and 4, 5 and 6) and counsel for the government answering, "Well, to be perfectly honest with you, many months ago I had this very same confusion, obviously. I am not sure." (Tr. 692-693).

As was stated in appellant's Motion for Judgment of Acquittal Notwithstanding the Verdict, or, in the Alternative, Motion for a New Trial (pp. 2-3):

> "The jury had before it six counts, viewed by the Court and all the parties as essentially two groups of charges.
>
> "The colloquy (Tr. 671-694) reveals the accord of all parties and the Court that the first three described single acts, as did the last three. Absent the degree of confusion among the jury that was experienced by the Court and the parties, the jury's verdicts should have been consistent.
>
> "That the jury's confusion was no less than the Court's and the government's is unavoidably clear in the verdict it did return of not guilty on counts 1, 3, 4, 5 and 6 and guilty on count 2."

Understandably the government wished to present its best case against appellant but in this instance that desire and the method by which it was achieved served to breach the constitutional protection of a fair trial by an impartial jury.

Appellant respectfully submits that the Court in succumbing to the prosecution's resistance to an election of three of the six Counts of the indictment for submission to the jury failed in its responsibility to assure a fair trial for appellant. The choice which the Court finally faced was whether the risk of causing an adverse inference by the jury because of an election requirement outweighed the risk of denying a fair trial to the accused by requiring the election on the part of the prosecution. Obviously, the Court avoided the first risk but in doing so the strong contention of appellant is that she was denied a fair trial.

CONCLUSION

WHEREFORE, for the above reasons, petitioner respectfully requests that this Court grant her petition for a writ of certiorari.

Respectfully submitted,

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APPENDIX A

UNITED STATES COURT OF APPEALS
For the Seventh Circuit
Chicago, Illinois 60604
Argued March 27, 1984
May 1, 1984.

Before
Hon. WILBUR F. PELL, JR., *Circuit Judge*
Hon. RICHARD D. CUDAHY, *Circuit Judge*
Hon. RICHARD A. POSNER, *Circuit Judge*

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

No. 83-2880 v.

GRACE JARRELL,

Defendant-Appellant.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.
No. 83 CR 149—**Paul E. Plunkett**, *Judge.*

ORDER

[Unpublished Order Not To Be Cited Per Circuit Rule 35]

On February 18, 1983, the defendant-appellant, Grace H. Jarrell, was charged in a six-count indictment with

violations of 18 U.S.C. sections 201(c)(1), 201(c)(2) and 201(g). During the time period relevant to the indictment, the defendant was a contact representative for the Immigration and Naturalization Service ("INS") in Chicago, Illinois. As such, one of her duties was to process "Petitions to Classify Status of Alien Relatives for Issuance of Immigrant Visas" (I-130 petitions). In processing these petitions, the representative checks the documents submitted with the petition, including an original birth certificate of the U.S. citizen and an original certificate of marriage between the citizen and the alien. If a petitioner does not wish to leave the original documents, the representative examines duplicates to determine that they are true copies of the originals, stamps the duplicates as "Originals Seen and Returned" and then permits the petitioner to retain the originals.

Counts One, Two and Three of the indictment charged Ms. Jarrell with accepting $100 on three separate occasions, April 10, 1981, May 5, 1981, and May 6, 1981, to be influenced in the performance of her official duties of processing I-130 forms in that she stamped duplicate documents as "Originals Seen and Returned" when she had not in fact seen the original documents, in violation of 18 U.S.C. sections 201(c)(1) and (g). Counts Four, Five and Six alleged violations of 18 U.S.C. sections 201(c)(2) and (g) in that she accepted $100 to commit a fraud on the United States on each of these occasions by falsely certifying that she had seen the original documents for the I-130 petitions. On May 20, 1983, after a five-day trial, Ms. Jarrell was found guilty on Count Two of the indictment and was acquitted on the other counts. Ms. Jarrell now appeals her conviction.

The first issue raised by the appellant is that Earle Black, a criminal investigator with the INS, made material misrepresentations, amounting to perjured testimony, to the grand jury which returned the indictment. Under *United States v. Udziela*, 671 F.2d 995, 1001 (7th Cir.), *cert. denied*, 102 S. Ct. 2964 (1982), if perjured testimony has been used to support an indictment, either the indict-

ment should be withdrawn or the district court should hold an *in camera* inspection to determine whether sufficient other evidence exists to support the indictment. If there is sufficient other evidence so that the grand jury may have indicted without giving any weight to the perjured testimony, then the indictment cannot be challenged on the basis of perjury. The appellant contends that Black committed perjury before the grand jury when he testified, in response to a question whether there was a tape recording of conversations with the appellant on January 16, 1981, that he did not think there was such a recording, although in fact there was. Such testimony in these circumstances cannot be said to constitute perjury; further, the indictment did not charge any violation based on the events of January 16. Finally, the district court did hold an *in camera* inspection of the grand jury transcript as required by *Udziela* and found that the grand jury could have returned the indictment without giving any weight to this testimony.

Appellant's second claim is that the charges in the indictment were so confusing to the jury that she was denied a fair trial. The basis for this claim is that each incident led to two counts: one for being influenced in the performance of official duties under 18 U.S.C. section 201(c)(1) and one for committing a fraud on the United States under 18 U.S.C. section 201(c)(2). The count on which appellant was convicted (Count Two) involves accepting a bribe to be influenced in the performance of official duties. She was, however, acquitted on Count Five, which charged the commission of a fraud on the United States in the same incident as that alleged in Count Two. At oral argument, the government took the position that the former was a lesser included offense of the latter, although in its brief the government argued that the two offenses were distinct, each requiring proof of an element not required to establish the other offense. The two offenses seem to be sufficiently distinct—one requiring proof that the defendant was influenced in the performance of official duties and the other proof of the elements of

fraud—that the appellant was not denied a fair trial. *Cf. Blockburger v. United States*, 284 U.S. 299, 304 (1932) (multiplicity is avoided if each of two charged offenses requires proof of a different element). Further, the jury was evidently not confused because it was sufficiently able to distinguish the two offenses so as to convict the appellant on one count and acquit her on the other.

Finally, the defendant argues that the evidence adduced at trial was not sufficient to support her conviction. On review, we must only determine whether any rational trier of fact, after viewing the evidence in the light most favorable to the government, could have found the defendant guilty beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *Glasser v. United States*, 315 U.S. 60, 80 (1942); *United States v. Moya*, 721 F.2d 606, 609-10 (7th Cir. 1983). The tape recordings of the conversations between the appellant and government investigators admittedly were garbled and did not reveal that the appellant actually asked for a bribe. However, the prosecution also presented the testimony of several investigators, who, while posing as petitioners for visas, gave the appellant cash and presented falsified document duplicates which appellant then stamped. The jury could have found the appellant guilty beyond a reasonable doubt on the basis of this evidence. Appellant's conviction is therefore affirmed.

APPENDIX B

UNITED STATES DISTRICT COURT
Northern District of Illinois

United States of America vs. Grace Jarrell
Docket No. 83CR 149

JUDGMENT AND
PROBATION/COMMITMENT
ORDER

In the presence of the attorney for the government the defendant appeared in person on this date—October 17, 1983

* * * * *

COUNSEL—Adam Bourgeois

FINDING & JUDGMENT—There being a verdict of GUILTY. Defendant has been convicted as charged of the offense(s) of Knowingly, Willfully and Unlawfully accept a bribe, as charged in Count 2 of the Indictment. In Violation Of Title 18, U.S. Code, Section 201(c)(1)(2).

* * * * *

SENTENCE OR PROBATION ORDER—It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a term of One(1) Month; and on condition that the defendant shall reside in the Metropolitan Correctional Center for a period of One(1) Month on Count 2.

It Is Futher Ordered that the defendant be given a stay of execution until November 17, 1983.

* * * * *

COMMITMENT RECOMMENDATION—3x5

* * * * *

Signed By—Paul E. Plunkett
U.S. District Judge

Date—October 17, 1983

APPENDIX C

UNITED STATES DISTRICT COURT
Northern District Of Illinois
Eastern Division

Name of Presiding Judge, Honorable Plunkett

Cause No. 83CR 149 Date 10-7-83

Title of Cause U.S. v. Grace Jarrell

* * * * *

Defendant's motion to reconsider defendant's motion for judgment or acquittal notwithstanding the verdict, or, in the alternative, motion for a new trial, is denied.

/s/ Plunkett—J.

APPENDIX D

UNITED STATES DISTRICT COURT
Northern District Of Illinois
Eastern Division

Name of Presiding Judge, Honorable Plunkett

Cause No. 83CR 149 Date 5-20-83

Title of Cause U.S. v. Jarrell

* * * * *

Trial held-jury. Defendant rests. Closing arguments concluded. Jury instructed. Jury deliberation begins. Jury verdict of: "We, the jury, find the defendant, Grace Jarrell, Guilty as charged in Count 2 of the Indictment and Not Guilty as charged in Counts 1,3,4,5,& 6," Court enters judgment of Guilty to Count 2. Trial ends. Order cause referred to the probation department for a pre-sentence investigation. Defendant given to and including June 20, 1983 to file any post-trial motions.

/s/ Plunkett—J.

APPENDIX E

UNITED STATES DISTRICT COURT
Northern District Of Illinois
Eastern Division

UNITED STATES OF AMERICA

v.

GRACE H. JARRELL

No. 83CR 149

Violation: Title 18, United States Code,
Sections 201(c)(1), 201(c)(2), 201(g)

The FEBRUARY 1983 GRAND JURY charges that:

1. At all times material to this indictment, Grace H. Jarrell, defendant herein was employed by the United States Department of Justice, in the Immigration and Naturalization Service ("INS") as a Contact Representative at the Chicago District Office, 219 South Dearborn Street, Chicago, Illinois.

2. That at all times material to this indictment, a part of the business and functions of INS was to process for a ten dollar ($10) fee INS forms I-130s, Petitions to Classify Status of Alien Relative for Issuance of Immigration Visa ("INS Form I-130").

3. That at all times material to this indictment, part of the duties and responsibilities of a Contact Representative was to review the INS Forms I-130 to determine whether it had been properly prepared and to review and

certify the authenticity of the accompanying documentation required to be submitted with the Form I-130, including but not limited to Marriage Certificates and Birth Certificates.

4. At all times material to this indictment, it was a part of the reviewing procedure that the Contact Representative would verify that originals of such accompanying documentation had been presented and would certify that originals had been seen and returned by impressing a stamp which read "Original Document Seen and Returned" and by signing the Contact Representative's name and the date the documents were seen and returned.

5. On or about April 10, 1981, at Chicago, in the Northern District of Illinois, Eastern Division,

GRACE H. JARRELL,

defendant herein, being an officer and employee of the United States Justice Department, that is, a Contact Representative for the Immigration and Naturalization Service, did indirectly and directly, corruptly exact, seek, accept, receive and agree to receive a thing of value, that is, one hundred dollars ($100), for herself, from Yvonne Smalls, in return for being influenced in the performance of official acts with regard to approving, certifying, and processing INS Form I-130 and the accompanying documentation, a Marriage and Birth Certificate;

In violation of Title 18, United States Code, Sections 201(c)(1) and (g).

COUNT TWO

The FEBRUARY 1983 GRAND JURY further charges:

1. The Grand Jury realleges each and every allegation contained in paragraphs one through four of Count One.

2. On or about May 5, 1981, at Chicago, in the Northern District of Illinois, Eastern Division,

GRACE H. JARRELL,

defendant herein, being an officer and employee of the United States Justice Department, that is, a Contact Representative for the Immigration and Naturalization Service, corruptly did exact, seek, accept, receive and agree to receive a thing of value, that is, one hundred dollars ($100), for herself, from Elaine Jones, in return for being influenced in the performance of official acts with regard to approving, certifying, and processing INS Form I-130 and the accompanying documentation, a Marriage and Birth Certificate;

In violation of Title 18, United States Code, Sections 201(c)(1) and (g).

COUNT THREE

The FEBRUARY 1983 GRAND JURY further charges:

1. The Grand Jury realleges each and every allegation contained in paragraphs one through four of Count One.

2. On or about May 6, 1981, at Chicago, in the Northern District of Illinois, Eastern Division,

GRACE H. JARRELL,

defendant herein, being an officer and employee of the United States Justice Department, that is, a Contact Representative for the Immigration and Naturalization Service, corruptly did exact, seek, accept, receive and agree to receive a thing of value, that is, one hundred dollars ($100), for herself, from Holliston Edwards, in return for being influenced in the performance of official acts with regard to approving, certifying, and processing INS Form I-130 and the accompanying documentation, a Marriage and Birth Certificate;

In violation of Title 18, United States Code, Sections 201(c)(1) and (g).

COUNT FOUR

The FEBRUARY 1983 GRAND JURY further charges:

1. The Grand Jury realleges each and every allegation contained in paragraphs one through four of Count One.

2. On or about April 10, 1981, at Chicago, in the Northern District of Illinois, Eastern Division,

GRACE H. JARRELL,

defendant herein, being an officer and employee of the United States Justice Department, that is, a Contact Representative for the Immigration and Naturalization Service, corruptly did exact, seek, accept, receive and agree to receive a thing of value, that is, one hundred dollars ($100), for herself, from Yvonne Smalls, in exchange for being influenced to commit and to aid in committing and to make the opportunity for the commission of a fraud on the United States, that is, falsely certifying that she had seen originals of Marriage and Birth Certificates accompanying INS Form I-130, whereas in truth and fact she had not;

In violation of Title 18, United States Code, Sections 201(c)(2) and (g).

COUNT FIVE

The FEBRUARY 1983 GRAND JURY further charges:

1. The Grand Jury realleges each and every allegation contained in paragraphs one through four of Count One.

2. On or about May 5, 1981, at Chicago, in the Northern District of Illinois, Eastern Division,

GRACE H. JARRELL,

defendant herein, being an officer and employee of the United States Justice Department, that is, a Contact Representative for the Immigration and Naturalization Service, corruptly did exact, seek, accept, receive and agree to receive a thing of value, that is, one hundred dollars ($100), for herself, from Elaine Jones, in exchange

for being influenced to commit and to aid in committing and to make the opportunity for the commission of a fraud on the United States, that is, falsely certifying that she had seen original Marriage and Birth Certificates accompanying INS Form I-130, whereas in truth and fact she had not;

In violation of Title 18, United States Code, Sections 201(c)(2) and (g).

COUNT SIX

The FEBRUARY 1983 GRAND JURY further charges:

1. The Grand Jury realleges each and every allegation contained in paragraphs one through four of Count One.

2. On or about May 6, 1981, at Chicago, in the Northern District of Illinois, Eastern Division,

GRACE H. JARRELL,

defendant herein, being an officer and employee of the United States Justice Department, that is, a Contact Representative for the Immigration and Naturalization Service, corruptly did exact, seek, accept, receive and agree to receive a thing of value, that is, one hundred dollars ($100), for herself, from Holliston Edwards, in exchange for being influenced to commit and to aid in committing and to make the opportunity for the commission of a fraud on the United States, that is, falsely certifying that she had seen originals of Marriage and Birth Certificates accompanying INS Form I-130, whereas in truth and fact she had not;

In violation of Title 18, United States Code, Sections 201(c)(2) and (g).

A TRUE BILL:

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FOREPERSON

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UNITED STATES ATTORNEY

SB:sc